

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1193

Citations Affected: IC 2-3.5-5-11; IC 5-10; IC 5-10.3-7-5; IC 21-6.1-4-6.1.

Synopsis: Public employee benefits. Provides that the deferred compensation committee shall adopt provisions in a defined contribution plan for the purpose of converting unused excess accrued leave to a monetary contribution for employees of a state agency. Requires the state personnel department to adopt rules concerning: (1) the type and amount of leave that may be converted to a monetary contribution; (2) the conversion formula for valuing any leave that is converted; (3) the manner of employee selection of leave conversion; and (4) the vesting schedule for any leave that is converted. Requires that the rules adopted by the state personnel department must provide for a conversion rate under which the amount contributed on behalf of a participating employee for a day of leave that is converted is equal to at least 60% of the employee's daily pay as of the date the leave is converted. Provides that the provisions may be implemented only if the deferred compensation committee has received from the Internal Revenue Service any rulings or determination letters that the committee considers necessary or appropriate. Provides that the existing provisions establishing a Section 125 cafeteria plan program for unused leave time for state employees do not apply after the defined contribution plan is implemented and the deferred compensation committee has received from the Internal Revenue Service any rulings or determination letters that the committee considers necessary or appropriate for the defined contribution plan. Makes certain changes in the operation of the deferred compensation committee. Authorizes a political subdivision that uses the state employees' deferred compensation plan for its employees to participate in the state defined contribution plan established under Section 401(a) of the Internal Revenue Code for the purpose of matching all or a specified portion of the political subdivision's employees' contributions to the deferred compensation plan. Provides a procedure for members of the public employees' retirement fund (PERF) or the Indiana state teachers' retirement fund (TRF) to purchase up to two years of military service credit to the extent service credit is not granted for that time under existing PERF or TRF provisions. Requires a member to have at least ten years of creditable service in PERF or TRF before the member may use the military service credit. Provides that the purchase of service credit provisions apply to members who retire after June 30, 2001. Requires the PERF board to adopt rules for making loans to a participant in the legislator's retirement system. Provides that certain elections by an employer concerning the payment of health insurance premiums and program eligibility may not be altered by the employer to the detriment of a former legislator. (This proposed conference report would: (1) provide that members of the

public employees' retirement fund (PERF) or the Indiana state teachers' retirement fund (TRF) who serve on active duty in the armed services of the United States for at least six months are entitled to purchase up to two years of service credit for the time served on active duty, to the extent service credit is not granted for that time under existing PERF or TRF provisions; (2) require a member to have at least ten years of creditable service in PERF or TRF before the member may use the military service credit; (3) provide that the purchase of service credit provisions apply to members who retire after June 30, 2001; (4) insert language from ESB 524 concerning loans from legislator annuity accounts; and (5) add language concerning former legislator health benefits.)

Effective: Upon passage; July 1, 2001; July 1, 2002.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1193 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 2-3.5-5-11 IS ADDED TO THE INDIANA CODE
- 4 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 5 UPON PASSAGE]: **Sec. 11. Before January 1, 2002, the PERF**
- 6 **board shall adopt rules establishing procedures for making loans**
- 7 **to a participant from the participant's employee contribution**
- 8 **account and employer contribution account within the defined**
- 9 **contribution fund. Rules adopted under this section must comply**
- 10 **with the requirements of Section 72(p) of the Internal Revenue**
- 11 **Code and must apply to each participant in the plan, regardless of**
- 12 **whether the participant is serving in the general assembly at the**
- 13 **time of the loan. A loan made in accordance with rules adopted**
- 14 **under this section is not considered the receipt of retirement**
- 15 **benefits for purposes of IC 5-10-8-1."**
- 16 Page 4, line 32, delete "shall be the trustees" and insert "**is the**
- 17 **trustee"**.
- 18 Page 5, between lines 24 and 25, begin a new paragraph and insert:
- 19 "SECTION 6. IC 5-10-8-8.4 IS ADDED TO THE INDIANA CODE
- 20 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 21 1, 2001]: **Sec. 8.4. Except as provided by an enactment of the**
- 22 **general assembly, an election by an employer under:**

(1) section 8(f) of this chapter concerning the payment of a retired employee's premium; or

(2) section 8(j) of this chapter concerning Medicare coverage and program eligibility;

may not be revoked or altered at any time by the employer or a subsequent employer to the detriment of a person entitled to benefits under section 8.2 of this chapter."

Page 6, after line 7, begin a new paragraph and insert:

"SECTION 8. IC 5-10.3-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) A member who:

(1) enters the United States armed services;

(2) leaves his contributions in the fund;

(3) except as provided in subsection (c), resumes service with his employer within one hundred twenty (120) days after his unconditional discharge; and

(4) would be entitled to service credit for military service under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.) if the member had resumed service with the member's employer within ninety (90) days after discharge;

is entitled to service credit for the armed service.

(b) A state employee who left employment before January 1, 1946, or an employee of a political subdivision who left employment before the participation date, to enter the United States armed services is entitled to service credit for the armed service if he:

(1) except as provided in subsection (c), resumes service with the employer within one hundred twenty (120) days after his unconditional discharge; and

(2) would be entitled to service credit for military service under the applicable requirements of federal law in effect at the time of reemployment if the employee had resumed service with the employee's employer within ninety (90) days after discharge.

(c) The board shall extend the one hundred twenty (120) day reemployment requirement contained in subsection (a)(3) or (b)(1) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from resuming employment within one hundred twenty (120) days after the member's discharge from military service. However, the board may not extend the deadline beyond thirty (30) months after the member's discharge.

(d) If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (c), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

(e) Notwithstanding any provision of this section, a member is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(f) Subject to the provisions of this section, an active member

may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed services.

(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(g) The following apply to the purchase of service credit under subsection (f):

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of

the service credit.

SECTION 9. IC 21-6.1-4-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6.1. (a) This subsection applies to members who retire before July 1, 1980. A member who had completed four (4) years of approved college teacher training before voluntary or involuntary induction into the military services is entitled to credit for that service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if for or during the leave of absence the member pays into the fund the member's contributions. Time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule specified in section 5 of this chapter.

(b) This subsection applies to members who retire after June 30, 1980. A member who had completed four (4) years of approved college teacher training before voluntary or involuntary induction into military service is entitled to credit for the member's active military service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if:

- (1) the member has an honorable discharge; and
- (2) except as provided in subsection (f), the member returns to active teaching service within eighteen (18) months after the completion of active military service.

The time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule specified in section 5 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection. In order to be eligible for any military service credit under this subsection, a member must have at least ten (10) years of in-state service credit.

(c) This subsection applies to members who retire after May 1, 1989. A member who had begun but had not completed four (4) years of approved college teacher training before voluntary or involuntary induction into the military services is entitled to service credit in an amount equal to the duration of the member's active military service if the following conditions are met:

- (1) The member has an honorable discharge.
- (2) Except as provided in subsection (f), the member returns to a four (4) year approved college teacher training program within eighteen (18) months after the completion of active military service and subsequently completes that program.
- (3) The member has at least ten (10) years of in-state service credit.

(d) This subsection applies to members who retire after May 1, 1991, and who are employed at state institutions of higher education. A member who had begun but had not completed baccalaureate or post-baccalaureate training before voluntary or involuntary induction into military service is entitled to the member's active military service

credit for the member's active military service in an amount equal to the duration of the member's military service if the following conditions are met:

(1) The member received an honorable discharge.

(2) Except as provided in subsection (f), the member returns to baccalaureate or post-baccalaureate training within eighteen (18) months after completion of active military service and subsequently completes that training.

(3) The member has at least ten (10) years of in-state service credit.

(e) The maximum amount of service credit that may be granted to a member who meets the conditions of subsection (c), or (d) is six (6) years. However, for purposes of subsection (c), or (d), the time served by the member in active military service for the length of active service in hostilities and necessary demobilization is not subject to the one-seventh rule specified in section 5 of this chapter.

(f) The board shall extend the eighteen (18) month deadline contained in subsection (b)(2), (c)(2), or (d)(2) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from returning to active teaching service or to a teacher training program within eighteen (18) months after the member's discharge from military service. However, the board may not extend the deadline beyond thirty (30) months after the member's discharge.

(g) If a member retires, and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (f), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

(h) Notwithstanding any provision of this section, a member is entitled to military service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later amendments.

(i) Subject to the provisions of this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed services.

(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

1 (i) The member's salary at the time the member actually
2 makes a contribution for the service credit.
3 (ii) A rate, determined by the actuary of the fund, that is
4 based on the age of the member at the time the member
5 actually makes a contribution for service credit and
6 computed to result in a contribution amount that
7 approximates the actuarial present value of the benefit
8 attributable to the service credit purchased.
9 (iii) The number of years of service credit the member
10 intends to purchase.
11 (B) Contributions for any accrued interest, at a rate
12 determined by the actuary of the fund, for the period from
13 the member's initial membership in the fund to the date
14 payment is made by the member.
15 However, a member is entitled to purchase service credit under
16 this subsection only to the extent that service credit is not granted
17 for that time under another provision of this section. At least ten
18 (10) years of service in Indiana is required before a member may
19 receive a benefit based on service credits purchased under this
20 section. A member who terminates employment before satisfying
21 the eligibility requirements necessary to receive a monthly
22 allowance or receives a monthly allowance for the same service
23 from another tax supported public employee retirement plan other
24 than under the federal Social Security Act may withdraw the
25 purchase amount plus accumulated interest after submitting a
26 properly completed application for a refund to the fund.
27 (j) The following apply to the purchase of service credit under
28 subsection (i):
29 (1) The board may allow a member to make periodic payments
30 of the contributions required for the purchase of the service
31 credit. The board shall determine the length of the period
32 during which the payments must be made.
33 (2) The board may deny an application for the purchase of
34 service credit if the purchase would exceed the limitations
35 under Section 415 of the Internal Revenue Code.
36 (3) A member may not claim the service credit for purposes of
37 determining eligibility or computing benefits unless the
38 member has made all payments required for the purchase of
39 the service credit.
40 SECTION 10. [EFFECTIVE JULY 1, 2001] IC 5-10.3-7-5 and
41 IC 21-6.1-4-6.1, both as amended by this act, apply only to
42 members of the public employees' retirement fund or the Indiana
43 state teachers' retirement fund who retire after June 30, 2001.
44 SECTION 11. An emergency is declared for this act".
45 Renumber all SECTIONS consecutively.
(Reference is to EHB 1193 as printed April 6, 2001.)

Conference Committee Report
on
Engrossed House Bill 1193

Signed by:

Representative Kromkowski
Chairperson

Senator Harrison

Representative Buell

Senator Craycraft

House Conferees

Senate Conferees